

Appendix F: Participant Rights

Appendix F-1: Opportunity to Request a Fair Hearing

The State provides an opportunity to request a Fair Hearing under 42 CFR Part 431, Subpart E to individuals: (a) who are not given the choice of home and community-based services as an alternative to the institutional care specified in Item 1-F of the request; (b) are denied the service(s) of their choice or the provider(s) of their choice; or, (c) whose services are denied, suspended, reduced or terminated. The State provides notice of action as required in 42 CFR §431.210.

Procedures for Offering Opportunity to Request a Fair Hearing. Describe how the individual (or his/her legal representative) is informed of the opportunity to request a fair hearing under 42 CFR Part 431, Subpart E. Specify the notice(s) that are used to offer individuals the opportunity to request a Fair Hearing. State laws, regulations, policies and notices referenced in the description are available to CMS upon request through the operating or Medicaid agency.

An applicant requesting Home & Community based Waiver services completes an application form. The application form contains information pertaining to consumer rights and explains the procedure they may follow in the event they are not satisfied and how to request a fair hearing. This form is signed and dated by the consumer or their legal representative.

The individual care plan informs the client of their right to appeal in the event they are not accepting of the provisions of the care plan. This document is signed and dated by the client (or the legal representative) at least every six months.

When an applicant/client is denied HCBS or if their services have terminated, they are provided with a document informing them of their right to being heard by a higher authority in the Case Management agency or by their right to appeal. If an applicant/client is denied or terminated, they are informed of the timeline necessary to submit an appeal. On the notice of termination, the Department indicates they have 10 days to file an appeal in order to have services continue until a decision has been made.

State:	
Effective Date	

Appendix F-2: Additional Dispute Resolution Process

- a. **Availability of Additional Dispute Resolution Process.** Indicate whether the State operates another dispute resolution process that offers participants the opportunity to appeal decisions that adversely affect their services while preserving their right to a Fair Hearing. *Select one:*

<input type="radio"/>	Yes. The State operates an additional dispute resolution process (<i>complete Item b</i>)
<input checked="" type="radio"/>	No. This Appendix does not apply (<i>do not complete Item b</i>)

- b. **Description of Additional Dispute Resolution Process.** Describe the additional dispute resolution process, including: (a) the State agency that operates the process; (b) the nature of the process (i.e., procedures and timeframes), including the types of disputes addressed through the process; and, (c) how the right to a Medicaid Fair Hearing is preserved when a participant elects to make use of the process: State laws, regulations, and policies referenced in the description are available to CMS upon request through the operating or Medicaid agency.

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State:	
Effective Date	

Appendix F-3: State Grievance/Complaint System

a. Operation of Grievance/Complaint System. *Select one:*

<input checked="checked" type="radio"/>	Yes. The State operates a grievance/complaint system that affords participants the opportunity to register grievances or complaints concerning the provision of services under this waiver (<i>complete the remaining items</i>).
<input type="radio"/>	No. This Appendix does not apply (<i>do not complete the remaining items</i>)

b. Operational Responsibility. Specify the State agency that is responsible for the operation of the grievance/complaint system:

The Department of Human Services, Medical Service Division, HCBS Unit works with a multi-disciplinary team approach if a complaint/grievance is received. When information is received by HCBS complaint resolution personnel, staff will assess the situation and arrange a Team consult if needed.

At times, the Team will be comprised of other HCBS Team members, Medical Services Administration, County Case Manager, Vulnerable Adult Protective Services, Health Department, Protection & Advocacy, and Long Term Care Ombudsman. Others may be involved depending on the situation.

c. Description of System. Describe the grievance/complaint system, including: (a) the types of grievances/complaints that participants may register; (b) the process and timelines for addressing grievances/complaints; and, (c) the mechanisms that are used to resolve grievances/complaints. State laws, regulations, and policies referenced in the description are available to CMS upon request through the Medicaid agency or the operating agency (if applicable).

Any complaint received is accepted by the department. A tracking system is maintained of the complaints, type of complaint, and the resolution. This system affords a client the opportunity to register complaint.

When a participant notifies the State of a grievance or complaint, the complaint is received, evaluated, applicable records relating to the complaint are reviewed, collateral information is obtained from the involved persons, and resolution is sought. If the complaint identifies immediate risk or harm to the client, law enforcement is involved as appropriate. Other complaints are responded to based on severity or within 30 days.

State:	
Effective Date	